

THOMAS TURNER, an individual, on)
 behalf of himself and others similarly)
 situated,)
)
 Plaintiff,) Civil Action No. 1:20-cv-11530-FDS
)
 vs.)
)
 LIBERTY MUTUAL RETIREMENT)
 BENEFIT PLAN, et al.,)
)
 Defendants.)
)
)
)

Gordon E. Meyer (MA BBO 561791)
Gordon E. Meyer & Associates
8 Winchester Street
Boston, Massachusetts 02116
Email: gordon@gmeyerlaw.com
Tel: (617) 482-2377

WINTERS & ASSOCIATES
Jack B. Winters, Jr., *Pro Hac Vice*
Sarah Ball, *Pro Hac Vice*
8489 La Mesa Blvd.
La Mesa, California 91942
Tel: (619) 234-9000
Fax: (619) 750-0413
Email: jackbwinters@earthlink.net
Email: sball@einsurelaw.com

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On September 13, 2023 the Court held a Status Conference in which it put in place the following deadlines:

- Fact Discovery regarding Plaintiff's claims 12/13/23
- All discovery 3/25/24

At the Status Conference the Court indicated it would likely hold a bench trial on Plaintiff Turner's individual claims and then address potential class claims after that time. In light of the deadlines put in place following the Status Conference, on September 19, 2023, counsel for Plaintiff sent a letter to counsel for Defendants, renewing its request that Defendants supplement previously propounded discovery which had been objected to on grounds the discovery was outside the scope of the bifurcated discovery. Plaintiff's counsel additionally requested Defendants produce documents that were the subject of a previous Motion to Compel which the Court denied without prejudice. See ECF No. 64. These documents primarily involve documents withheld by Defendants under a claim of attorney client privilege, and which Plaintiff contends are subject to ERISA's fiduciary exception.

Finally, Plaintiff asked for Defendants to provide the availability of four different witnesses for deposition. To date, counsel for Defendants has not provided availability for the deponents Plaintiff listed in the September 19, 2023 letter. Counsel for Defendants has indicated he is working on getting those dates.

On October 13, 2023, Plaintiff propounded limited additional written discovery. On October 19, 2023, Defendants provided supplemental responses to discovery that had been initially propounded before the most recent round of summary judgment briefing. No further responsive documents have been produced as of the date of this filing. Counsel for Plaintiff is reviewing these responses, but these, combined with Defendants' continued reliance on the attorney/client privilege on certain documents that Plaintiff contends are not privileged, will likely necessitate the filing of a motion to compel, which counsel for Plaintiff anticipates filing by the end of next week. Plaintiff contends that resolution of these issues, as well as receipt of documents responsive to his written discovery, should occur prior to the taking of depositions. This will ensure that any depositions taken of Defendants' personnel will not need to be repeated. These issues regarding the applicability of the fiduciary exception have been fully briefed.

DATED: October 23, 2023

WINTERS & ASSOCIATES

/s/Jack B. Winters, Jr.

Jack B. Winters, Jr., *Pro Hac Vice*

Sarah Ball, *Pro Hac Vice*

8489 La Mesa Blvd.

La Mesa, California 91942

Tel: (619) 234-9000

Fax: (619) 750-0413

jackbwinters@earthlink.net

sball@einsurelaw.com

**GORDON E. MEYER &
ASSOCIATES**

Gordon E. Meyer (MA BBO 561791)
8 Winchester Street
Boston, Massachusetts 02116
Tel: (617) 482-2377
gordon@gmeyerlaw.com

NICHOLAS & TOMASEVIC, LLP

Craig M. Nicholas (CA SBN 178444)
Alex Tomasevic (CA SBN 245598)
225 Broadway, 19th Fl.
San Diego, CA 92101
Tel (619) 325-0492
Fax (619) 325-0496
cnicholas@nicholaslaw.org
atomasevic@nicholaslaw.org

Attorneys for Plaintiff
THOMAS TURNER, an individual,
on behalf of himself and others
similarly situated

CERTIFICATE OF SERVICE

I certify that this document, filed through the Court's ECF system, will be sent electronically to the registered participants in this matter as identified on the Notice of Electronic Filing.

DATED: October 23, 2023



Silvia Flores